

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

1. STATE OF OKLAHOMA

Plaintiff,

v.

1. MIGUEL CARDONA, in his official capacity as the Secretary of Education for the United States Department of Education;

and

2. UNITED STATES DEPARTMENT OF EDUCATION;

Defendants.

Case No. CIV-24-0461-JD

**PLAINTIFF’S MOTION FOR LEAVE TO SUPPLEMENT ITS MOTION FOR
PRELIMINARY INJUNCTION AND OPENING BRIEF IN SUPPORT**

Pursuant to Local Rule 7.1(b) and (i), the State of Oklahoma (“Plaintiff” or “Oklahoma”), submits this Motion for Leave to Supplement its Motion for Preliminary Injunction and Opening Brief in Support, Doc. 21. Specifically, Oklahoma seeks leave to supplement its PI Motion with three short lay declarations. This Motion is made with respect to the following circumstances:

1. Oklahoma filed its PI Motion on June 28, 2024. Doc. 21. As part of the PI Motion, Oklahoma has requested an expedited ruling to enjoin Defendants’ April 29, 2024, Final Rule, entitled *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, 89 Fed. Reg. 33,474 (the “Final Rule”), from going into effect on August 1, 2024.

2. Given the impending effective date of the Final Rule, Oklahoma sought to file the PI Motion early enough to allow the Court and the parties the benefit of at least a month to consider the legal arguments raised by the PI Motion. Since the filing of the PI Motion, Oklahoma has confirmed that three lay witnesses—a coach, a high school student, and a former college athlete—would like to testify in support of Oklahoma in this matter.

3. Oklahoma thus requests leave to file a supplement to its PI Motion by submitting the declarations obtained from these witnesses supporting the PI Motion. The proposed declarations are attached hereto. *See* Declaration of Peyton Moser, attached as Exhibit 1; Declaration of Eric Sailer, attached as Exhibit 2; and Declaration of Karson Merrell, attached as Exhibit 3.

4. These declarations contain no legal argument, but rather provide context and demonstrate the potential impact of the Final Rule on Oklahomans. Oklahoma does not intend to modify its Opening Brief in Support of the PI Motion in any respect. Oklahoma merely seeks to submit these Declarations for the Court's consideration.

5. On July 3, Oklahoma notified counsel for Defendants about the proposed supplement. Counsel for Defendants was not able to state whether Defendants object to the filing of these declarations as a supplement as of the time of this filing. Plaintiff assumes that Defendants will object to the relief sought herein. Plaintiff does not believe such filing will prejudice Defendants, however, given the succinctness of the declarations and the fact that Defendants will still have 10 days in which to incorporate any response.

WHEREFORE, Oklahoma respectfully requests that the Court enter an Order allowing Oklahoma to file the attached declarations as a supplement to its PI Motion.

Respectfully submitted,

s/ Barry G. Reynolds

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ATTORNEYS FOR THE STATE OF OKLAHOMA

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of July, 2024, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrant:

Hannah M. Solomon-Strauss
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/s/ Barry G. Reynolds
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